THE MEMPHIS DAILY APPEAL.

BY M'CLANAHAN, TROUSDALE & DILL. MEMPHIS, SATURDAY, MARCH 12, 1859. VOLUME X.—NUMBER 59.

Daily Appeal.

GREAT DEBATE IN THE UNITED STATES SENATE.

ON POPULAR SOVEREIGNTY: FEBRUARY 23, 1859

A full report of the great debate in the United States Senate, on the 23d ult., on Popular Sovereignty, is contained in the Washington Globe, of the 1st inst., and occupies over forty columns of that paper. We publish below the first speech of Senator Douglas on that occasion; in reply to Mr. Brown, of Mississippi, the debate having been continued for some hours afterward by Messrs Davis, Green, Mason, Pugh, Doolittle, Hunter, Broderick, Stuart, Gwin, Bigler, Hale, Fessenden, Clingman, Smith, Crittenden and Douglas:

Mr. Douglas. If no other northern Democrat desires to be heard on the points presented by the Senator from Mississippi, I feel it incumbent on me to say something in vindication of my own position, reluctant as I am to occupy time at this stage of the session, in a discussion of this question. I admire the frankness, candor and discretion with which the Senator has approached this question. No man can accuse him, none will suspect him, of a desire to "cheat or to be cheated;" and I hope that I shall be able to put my opinions on the record in a manner that will acquit me of the slightest suspicion of desiring to cheat or to be cheated. To a certain point, that Senator and myself agree. Then there comes divergence, which grows wider and wider the further we travel. We agree that, under the decision of the Supreme Court of the United States, slaves are property, standing on an equal footing with all other property; and that consequently, the owner of a slave has the same right to emigrate to a territory, and carry his slave property with him, as the owner of any other species of property has to move there and carry his property with him.

Mr. Doolittle. Will the honorable Senator allow me one question?

Mr. Douglas. I am replying to the Senator from Mississippi now, and would prefer, therefore, to go on.

Mr. Doolittle. I wish to put a question to the honorable Senator from Illinois, on that point.

Mr. Douglas. I desire to deal with this point alone. At another time the Senator can present his point. The right of transit to and from the territories is the same for one species of property as it is for all others. Thus far the Senator Mississippi and myself agree—that slave property in the Territories stands on an equal footing with every other species of property. Now, the question arises, to what stand is property, slave included, subject to the local law of the Territory? Whatever power the Territorial Legislature has over other species of property, extends, in my judgement, to the same extent, and in like manner, to the slave property. The Territorial Legislature has the same power to legislate in regard to slaves, that it has in regard to any other property, to the same extent, and no further. If the Senator wishes to know what power it has under slaves, he knows what power it has under other species of property. I answer, let him tell me what power it has to legislate over every other species of property, either by encouragement or by taxation, or in any other mode, and he has my answer in regard to slave property.

But the Senator says there is something peculiar in slave property, requiring further protection than other species of property. If so, it is the misfortune of those who own that species of property. He tells us that, if the Territorial Legislature fails to pass a slave code for the Territories, fails to pass police regulations to protect slave property, the absence of such legislation practically excludes slave property as effectually as if a positive prohibition would exclude it. I agree to that proposition. He says, furthermore, that it is competent for the Territorial Legislature, by the exercise of the taxing power, or by other functions within the limits of the constitution, to adopt unfriendly legislation, which practically drives slavery out of the territory. I agree to that proposition. But in just what I said, and all I said, and just what I meant in my Freeport speech in Illinois, upon which there has been so much comment throughout the country.

But the Senator says that while non-action by the territorial legislature excludes slavery; and while the territorial legislature may, within the limits of the Federal Constitution, adopt such a system of unfriendly legislation as in effect to exclude slavery from its limits, yet it is wrong for the legislature to pass a negative policy; and, because the territorial legislature ought not to adopt that line of policy, he will not be content with such legislation, but will appeal to Congress, and demand a Congressional code of laws, protecting slavery in the territories, in opposition to the will of the people. Well, sir, his conclusion is a logical one, unless my position is sound. If he can never agree that non-action by the territorial legislature is practical exclusion, if the people of a territory want slavery, they will protect it by a slave code, if they do not want slavery, if they believe it is not necessary—if they are of the opinion that their interests do not require it, or will be prejudiced by it, they will not furnish the necessary remedies and police regulations, usually called a slave code, for its protection.

The Senator from Mississippi says they ought to pass such a law, for he claims that its immediate or inquire whether they ought or ought not to do it; for if they do not want it, they will not enact it; and if they do not do it, there is no made out of which you can expend the money to do it. He admits there is no compulsory manner by which you can compel the territorial legislature to pass such a law; and he thinks he has made a case for direct action by the Territorial Legislature, it is the right and duty of Southern Senators and Representatives to demand affirmative action by Congress in the enactment of a slave code for the territories. He says that it is not necessary to put the question to me, whether I would vote for a Congressional slave code, if I thought it was in accordance with the wishes of my constituents? I know of all other Northern Democrats what they will do; he does not wish an answer from me. I am much obliged to him for taking it for granted, from my past record, that I never would vote for a slave code in the Territories by Congress, and I have yet to learn that there is a man in a free State of this Union, of any party, who would.

Mr. Mason. Yes sir. The Senator from Mississippi defined it very well in his speech. His position was, that while the Constitution gave him the right of protection in a Territory for his slave property, it did not, of itself, furnish adequate protection. He drew a distinction between the right and the fact, and said that the protection could only be furnished by legislation; that legislation could only come from one of two sources—the Territorial Legislature, or the Congress of the United States. He would look to the Territorial Legislature in the first instance. If he got adequate legislation there he was content; but if the Territorial Legislature failed to act, and give him that adequate legislation, in the form of what is commonly called a slave code, such non-action was equivalent to a denial of his rights; and, having his rights, he was in a position to him that he had been deprived of them by the non-action of a Territorial Legislature; and hence he would demand of Congress the passage of laws to protect his slaves, and to punish men for running them off, to furnish such remedies for the violation of his rights as he thought he was entitled to from the Territorial Legislature. He and he would demand this from Congress.

Mr. Brown. Because the Territorial Legislature was the creature of Congress.

Mr. Douglas. He further said that he would base his demand on Congress to pass his slave code on the ground that the Territorial Legislature was the creature of Congress; and, if it did not do its duty, Congress should pass such laws as were necessary to protect slave property in the Territories.

Mr. Green. Will the Senator permit me to ask him a single question?

Mr. Douglas. Certainly.

Mr. Green. If a law merely providing protection is to be called a slave code, then, I ask, if laws, in general terms, were enacted by the Territorial law, and the Legislature should except the larceny of slaves, would he say he would submit to that at the option of the Legislature?

Mr. Douglas. It is immaterial to me whether you call this legislation a slave code, or by any other name. I will call it by any name the Senator chooses. I wish to be understood, however, and to use such language as conveys the idea. I take the language of the Senator from Mississippi, if that is satisfactory. All I have to say, on the point presented by the Senator from Missouri, is this: while our constitution does not provide remedies for stealing negroes, it does not provide remedies for stealing dry goods, or horses, or any other species of property. You cannot protect any property in the Territories without laws furnishing remedies for its violation, and penalties for the doing of those. Nobody pretends that you are to wait for laws of Congress making a criminal code for the Territories, with reference to other species of property. The Congress of the United States never yet passed an act creating a criminal code for an organized Territory. Reasons organize the Territory, and leaves its Legislature to make its own laws. Congress never yet passed a law to protect any species of property in the organized Territories; it leaves its protection to the Territorial Legislature. The question is, whether we shall make an exception in favor of slaves. The Supreme Court makes no such distinction. It recognizes slaves as property. When they are taken to a Territory, they are on an equal footing with other property, and dependent upon the same system of legislation, for protection, as other property. While all other property is dependent for its protection upon the Territorial legislature, I hold that slave property must look to the same authority for its protection.

Mr. Green. The Senator will permit me to say that I think he does not understand the point I presented, and I therefore desire to present it more explicitly. The Supreme Court have decided that slaves constitute property, if a Territory, authorized by Congress to legislate for itself, should pass a law punishing larceny of all property—except slaves, would that make slaves equal to other property? It would it not be a violation of the Constitution?

Mr. Douglas. If the Senator cannot understand my answer to that question by what I have said, and the illustration by argument, it is useless for me to discuss it further. I say that I leave all kinds of property—slaves included, to the local law for protection; and that I will not extend the power of Congress to interfere with that local law with reference to slave property, or any other kind of property. If the people think that particular laws on the subject of property are beneficial to their interests, they will enact them. If they do not think such laws are wise, they will refrain from enacting them. They will protect slaves, provided they want slavery; and they will want slavery, if the climate be such that the white man cannot cultivate the soil, as to render negro compulsory labor necessary. Hence, it becomes a question of climate, of production, of self-interest, and not a question of legislation, whether slavery shall or shall not exist there.

But the Senator from Mississippi says he has a right to protection. The owner of every other species of property may say he has a right to protection. The man dealing in liquors may think that, inasmuch as his stock of liquors is property, he has a right to protection. The man dealing in an inferior breed of cattle may think he has a right to protection; but the people of the Territory may think it in their interest to improve the breed of stock by discrimination against inferior breeds; and hence, they may fix a higher rate of taxation on the one than on the other.

Mr. Brown. The Senator from Illinois now makes a point which enables me to illustrate what I mean. I hold that the Territorial Legislature of Kansas—that being the Territory immediately involved in this discussion—has no right to enact the Maine liquor law. That is an act of sovereignty. It has the right to say that liquors carried into the Territory shall be so used as that they shall not corrupt the public morals nor endanger the public safety; but the power of prohibition does not belong to a Territorial Legislature. So I say in reference to slave property. As I said in my opening remarks this morning, while I demand justice, I will do justice. I hold that a Territorial Legislature has the right to regulate the relation between master and slave in such a manner that the master shall not permit the abuse, nor danger the public safety or public morals. That is what I mean by the power to regulate; and not seeing the point at which a court could intervene to arrest this power if it were abused, I said I never would, or rarely ever, present a case in which we could get before the court, and upon this we could demand its judgment. By this I understood the Senator from Illinois to mean unfriendly legislation; that in the exercise of its power to regulate the relation between master and slave, it could act with such severity as effectually to exclude slavery as though it was a constitutional inhibition. That is what I meant.

Mr. Douglas. I am willing to test this question by the illustration the Senator presents of a Maine liquor law. I shall not stop to inquire whether the Maine liquor law is constitutional or not; first, because Congress is not the tribunal to decide that question, inasmuch, by the platform to which the Senator from Mississippi and myself both stand pledged as the rule for future political action, it is provided that that question shall be sent to the court to test the constitutionality of the law, and we shall not come to Congress to repeal the law. When the Nebraska bill was before the Senate in the Senate, it contained the old clause that the Territorial laws should be sent here, and, if disapproved by Congress, should be void. The discussion proceeded on the basis that we were conferring the whole power of legislation on the Territory, subject only to the Constitution of the United States, with the right in the Territorial Legislature to define and regulate their domestic institutions in their own way; and that if any man was aggrieved by such legislation, he should have a right to appeal to the Supreme Court of the United States to test its validity, but should not come to Congress to repeal the obnoxious law.

When that argument was made, a distinguished Senator from Ohio, not now here, (Mr. Chase) asked us why we kept that clause in the bill providing that the laws of the territory should be sent here for approval or disapproval? We could not answer the inquiry, and hence we struck out the provision requiring the territorial laws to be sent here for approval or disapproval. We thought the idea was that we gave to the Territorial Legislature all the power that was possessed, all that could be given under the Constitution; and the understanding was that Congress would not interfere with whatever legislation they might enact.

Now, the Senator from Alabama asks me whether the southern people, under the Constitution, have not the right to carry their slaves there? I answer, yes—he means right that you have to carry any other property. Then you ask, have they not a right to hold it there when they get it there? I answer, the same right that you have to hold any other property, subject to such local laws as the local Legislature may constitutionally enact. Can you hold any other property without law to protect it? No. Then, can you hold slave property without law to protect it? No, is the answer. Then, will Congress pass laws to protect other property in the Territories? I answer, no. We have created Territorial Legislatures for that purpose. We agreed that this Government should not violate the principles of our Revolution, by making laws for a distant people, regulating their domestic concerns, and affecting their rights of property, without giving them a representation. The doctrine that Congress is to regulate the rights of person and property and the domestic concerns of a Territory, is the doctrine of the Tories of the Revolution. It is the doctrine of George III and Lord North, his minister. Our fathers then said they would not consent that the British Parliament should pass laws touching the local and domestic concerns of the colonies, the rights of person and property, the family relations of the people of the colonies, without their consent. The Parliament of Great Britain said they had the power. We said to them, "You may have the power, but you have not the moral right; it is violative of the great principles of social liberty, violative of the rights of an Englishman not to be affected in his property without his consent, as given through his representatives." Because Great Britain insisted on exercising that despotic power over their colonies, our fathers flew to arms, asserted the doctrine that every colony, every dependency, every Territory, had a right, in its own domestic relations, to pass just such laws as its people chose, touching their local and domestic concerns; recognizing the right of the imperial Parliament to regulate the imperial affairs, as I do the right of Congress to regulate the national and federal concerns of the people of a Territory.

Sir, I am asserting, on behalf of the people of the Territories, just those rights which our fathers demanded for themselves against the claim of Great Britain. Because those rights were not granted to our fathers, they went through a bloody war of seven years. Am I now to be called upon to enforce that same odious doctrine on the people of a Territory against their consent? I say, no. Organize a territorial government for them; give them a Legislature, to be elected by their own people; give them all the powers of legislation on all questions of a local and domestic character, subject only to the Constitution; and if they make good laws, let them enjoy their blessings; and if they make bad laws, let them suffer under them until they repeal them. If the laws are oncongenial to me, I will then give my voice for repeal to the court—the tribunal created by the Constitution—to ascertain that fact. That is my principle on which we stood in 1854. It was on that principle and on that understanding we fought the great national battle and gained the great victory of 1856. How many times do you think Mr. Buchanan and friends have obtained in Pennsylvania if he had then said that the Constitution of the United States plants slavery in all the Territories, and makes it the duty of the Federal Government to keep it there, and maintain it there at the point of the bayonet and by federal laws, in opposition to the will of the people? How many would he have received in Pennsylvania, if he had stood on such a platform? Mr. Buchanan did not then understand the doctrines of popular sovereignty and self-government in that way.

Mr. Bigler. Mr. President—

Mr. Douglas. I will hear the Senator.

Mr. Bigler. I shall not attempt to answer the honorable Senator's question; but he will pardon me for asking another; which I think quite as significant and quite as appropriate, and it is this: Suppose that in the campaign of 1856, instead of saying, as the honorable Senator said, and as those who acted with him said, and as I said everywhere to the people of the States, who were about to emigrate to the Territories, "when you get there you carry with you all the rights you enjoy in a sovereign State," saying as he said, and as I said, "it is but the extension of the great principle of self-government to the territories," suppose he had said to those proud people, "when there, and in the matter of changing your government from a Territory to a State, you shall have the high privilege of exercising the right to petition Congress for a redress of grievances?" they would have asked that Senator and me when it was, and when it was, that the American citizen had not a right to petition for a redress of grievances, whether white or black.

Mr. Douglas. Mr. President, I shall not answer that part of the Senator's inquiry relative to whether American citizens, white or black, have not the right to petition for a redress of grievances, because I do not recognize any black American citizens. I have no colored brethren of that description. [Laughter and applause in the galleries.] I know of no American citizens in this republic except the white people, and I trust in God I shall always know any other kind. [Applause in the galleries.]

Mr. Bigler. I know that as well as the Senator; and I ought to have said inhabitants.

The presiding officer, (Mr. Iverson in the chair.) If there is any more interruption in the galleries, the Chair will order the galleries to be cleared.

Mr. Mason. If there is any more disturbance in the galleries, I shall certainly move and insist that the galleries be cleared.

The Presiding officer. The Chair will order the galleries to be cleared at once if there is any further interruption.

Mr. Douglas. I assert that in 1856, during the whole of that campaign, I took the same position I do now, and none other; and I will show that Mr. Buchanan pledged himself to the same doctrine when he accepted the nomination of the Cincinnati Convention. In his letter of acceptance he says, referring to the Kansas-Nebraska act:

"The recent legislation of Congress, respecting slavery, derives its authority from the original and pure fountain of legitimate political power, the will of the majority, promises are long to allay the dangerous excitement. This legislation adopts the true principles as ancient as free government itself, and in accordance with them, has simply declared that the people of a Territory, like those of a State, shall decide for themselves whether slavery shall or shall not exist within their limits."

The extract from Mr. Buchanan's letter shows that he then understood that the people *of a Territory, like those of a State*, should decide for themselves wherever slavery should or should not exist within their limits. I undertake to say that when the Nebraska bill was in the Senate, I stated that the principle on which we stood in 1854,